

AO 91 (Rev. 02/09) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the  
Southern District of Texas

United States of America )

v. )

Rafael MARTINEZ Jr. )

COB: US )

YOB: 1998 )

*Defendant*

Case No. 7:19mj 0028

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 01/04/2019 in the county of Hidalgo in the Southern District of Texas, the defendant violated 21 U. S. C. § 841 (a)(1) and 952, an offense described as follows:

Knowingly and Intentionally Possess with the Intent to Distribute approximately 8.0 kilograms of methamphetamine a Schedule II controlled substance, 101.6 grams of heroine a Schedule 1 controlled substance, Knowingly and Intentionally Illegally Import into the United States approximately 8.0 kilograms of methamphetamine and 101.6 grams of heroine both a Schedule II Controlled Substance and 101.6 grams of heroine a Schedule 1 Controlled Substance.

*Amended, granted 1/7/18*

This criminal complaint is based on these facts:

See Attachment "A"

☒ Continued on the attached sheet.

Submitted by reliable electronic means,  
sworn to and attested to telephonically  
per Fed. R. Cr. P. 4.1, and probable  
cause found on:

s/Jose O. Ovalle Jr.

*Complainant's signature*

Jose O. Ovalle Jr, HSI Special Agent

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 01/05/19 - 9:51 p.m.  
01/06/2019

*[Signature]*  
*Judge's signature*

City and state: McAllen, Texas

Juan F. Alanis, U.S. Magistrate Judge

*Printed name and title*

## Attachment A

On January 04, 2019, a 2003 Chevrolet Impala displaying Texas license plate JDN4371, driven by United States Citizen Rafael MARTINEZ Jr., made entry at the Progreso, Texas Port of Entry (POE) through primary inspection station. During questioning of MARTINEZ, U.S. Customs and Border Protection (CBP) Officer noticed an alert on MARTINEZ for narcotics smuggling entered in November 2018. MARTINEZ was referred to secondary inspection and upon provided a negative declaration, CBP Officers searched the vehicle and, in the trunk, noticed two fire extinguishers that appeared to be new. An inspection of the extinguishers, revealed both labels directions were in Spanish writing, and officers noticed they had an odor of fresh paint.

CBP Officers asked MARTINEZ why he had the two fire extinguishers to which MARTINEZ replied he had recently purchased them for \$20.00 USD to control brush fires at his residence in the US. The two extinguishers were removed from the trunk and upon a search from a CBP Canine Enforcement Officer and K9 partner, resulted in a positive alert to the odor of narcotics. CBP Officers removed both caps from the extinguishers, and utilizing a probe were only able to drive the probe approximately  $\frac{1}{4}$  into the extinguisher before hitting hard surface. Drilling of the extinguishers resulted in the discovery of a white crystalline powdery substance that field tested positive for the characteristics of methamphetamine. The methamphetamine extracted weight was 8 kilograms and the discovery of smaller package taped to wall of extinguisher tested positive for heroine, with a weight of 101.6 grams.

Homeland Security Investigations (HSI) Special Agents responded to the port to interview MARTINEZ. MARTINEZ agreed to speak to agents and signed the preprinted Miranda Rights form in Spanish. SA's Fatima Alkhatib and Jose Ovalle Jr., conducted the interview of MARTINEZ that was witnessed by CBP Officer Botello.

MARTINEZ initially provided SA's the same story about purchasing the extinguishers in the US at a garage sale, leaving them in the trunk and his travel to Mexico to visit his sick relative. When asked to provide location of the house in US where the purchase of extinguishers took place so agents could go speak to the seller, he was unable to give any information, pausing to think for his reply. MARTINEZ was also reluctant to provide names and telephone numbers of relatives to confirm the relative in Mexico, was seriously ill where it was necessary for him to travel and visit.

MARTINEZ then changed his story telling agents, three to four days prior, MARTINEZ made arrangements with an unknown male in Mexico to travel to Reynosa, meet the male's associates and bring the fire extinguishers to the US. MARTINEZ told agents that he spoke to the male over the telephone and provided the male's contact information on his phone. Agents were able to confirm MARTINEZ' contact with the male by checking call log history. MARTINEZ said once in the US, he would contact or be contacted by US associates and turn over the extinguishers.

MARTINEZ told agents he willingly agreed to assist to transport the extinguishers but did not know what they would contain.